

LOUISIANA PUBLIC SERVICE COMMISSION
MINUTES FROM JANUARY 30, 2013
OPEN SESSION

MINUTES OF JANUARY 30, 2013 OPEN SESSION OF THE LOUISIANA PUBLIC SERVICE COMMISSION HELD IN BATON ROUGE, LOUISIANA. PRESENT WERE CHAIRMAN ERIC SKRMETTA, VICE CHAIR CLYDE HOLLOWAY AND COMMISSIONERS FOSTER CAMPBELL, LAMBERT BOISSIERE, AND SCOTT ANGELLE. ALSO PRESENT WAS EVE KAHAO GONZALEZ.

Open Session of January 30, 2013, convening at 9:20 A.M. and adjourning at 12:12 P.M., Natchez Room, 602 N. 5th Street, 1st Floor, Baton Rouge, Louisiana, with the above-named members of the Commission and Secretary Eve Kahao Gonzalez.

Ex. 1 Announcements

Secretary Gonzalez introduced the LPSC's newest Commissioner, Scott Angelle, and his assistant Susan Benoit. The other Commissioners joined her in welcoming Commissioner Angelle. She further stated that as of February 4, 2013, Brandon Frey will be permanent Executive Counsel.

Several Commissioners inquired about the ability to have out of town B&Es this year. Secretary Gonzalez stated that she hoped by April or May to know what collections will be and whether this will be feasible.

Commissioner Holloway offered his best wishes to Mark Kleehammer of Entergy as this will be his last B&E to attend.

Ex. 2 Election of Chairman and Vice-Chair

On motion of Commissioner Holloway, seconded by Commissioner Campbell, and unanimously adopted, the Commission voted to elect Commissioner Skrmetta as 2013 LPSC Chairman.

On motion of Commissioner Skrmetta, seconded by Commissioner Campbell, and unanimously adopted, the Commission voted to elect Commissioner Holloway as 2013 LSPC Vice Chairman.

Ex. 3 Election of ERSC/MISO Organization of MISO States (OMS) Representative.

On motion of Commissioner Boissiere, seconded by Commissioner Angelle, and unanimously adopted, the Commission voted to elect Chairman Eric Skrmetta to be the LPSC ERSC and MISO OMS Representative for 2013, based on the following protocols: 1) As is the case today with the ERSC, the LPSC representative to OMS will have authority to vote on all procedural matters. 2) For substantive matters, every possible effort must be made for the LPSC representative to obtain prior approval from the Commission for the vote. 3) In the event that prior approval cannot be obtained, but it is essential that the LPSC's OMS representative vote be effective at the time it is taken at OMS, the OMS representative shall contact the Executive Secretary of the Commission who in turn shall seek the approval on any requested vote from the Vice Chairman of the Commission. The LPSC OMS representative will be authorized to vote taking into account the approval obtained by the Commission Secretary. The Commissioners will be notified of this exception to the general rule of prior approval and at its next regularly scheduled Business & Executive or Special Session, and the Commission shall ratify or reject the prior vote of the LPSC representative to the OMS.

Ex. 4 **T-32317 - T J's Mighty Movers, LLC (Bossier City, Louisiana), ex parte. In re: Application to increase tariff rates for LPSC 7254.**

In re: Discussion and possible vote on Staff Recommendation.

On motion of Commissioner Campbell, seconded by Commissioner Boissiere, and unanimously adopted, the Commission voted to exercise its original and primary jurisdiction and take this matter up pursuant to Rule 57.

On motion of Commissioner Campbell, seconded by Commissioner Boissiere, and unanimously adopted, the Commission voted to accept the Staff Recommendation and approve the requested increase as follows: 1) The Company is granted the requested increase provided that it is in

compliance with all LPSC Transportation Rules and Regulations. The Company shall submit corrected balance sheet data to the LPSC Transportation Division for 2011 to reflect the purchase of the moving truck accidentally omitted by the Company's tax preparer. 2) The Company is ordered to properly account for the Owner's Draw account to be placed on the Balance Sheet as a contra account to Partner's Capital Account and not as an expense on the Income Statement.

- Ex. 5** **T-32460** - Louisiana Public Service Commission vs. Smooth Movers, LLC (New Orleans, Louisiana). In Re: Alleged violation of Louisiana Revised Statutes Title 45, 161 through 180.1, as amended, by operating intrastate without LPSC authority by engaging in activities related to moving household goods prior to complying with the requirements of La. R.S. 45:164E(1).

In re: Discussion and possible vote on Stipulated Agreement pursuant to Rule 57.

On motion of Commissioner Skrmetta, seconded by Commissioner Holloway, and unanimously adopted, the Commission voted to exercise its original and primary jurisdiction and take this matter up under Rule 57.

On motion of Commissioner Boissiere, seconded by Commissioner Holloway, and unanimously adopted, the Commission voted to accept the Staff Recommendation and adopt the agreement between Staff and the Carrier, dated December 4, 2012, wherein the Carrier agreed to plead guilty and pay a fine of \$1,000.00 per count with \$500.00 per count being suspended, contingent upon Smooth Movers removing any and all advertising from "The Real Yellow Pages", not committing any additional violations within the following one (1) year from the date of the Stipulation and Agreement, and agreeing that the unsuspended portion of the fine and the citation fee, for a total of \$525.00, would be remitted to the Commission.

- Ex. 6** **R-32587** - Louisiana Public Service Commission ex parte. In re: To review and formulate possible changes to General Order dated November 2, 1987 and General Order dated March 18, 1994, pertaining to the requirements for completing a sale, transfer, or change of control for Common and Contract Carriers regulated by the Louisiana Public Service Commission.

In re: Discussion and possible vote on Proposed General Order.

On motion of Commissioner Campbell, seconded by Commissioner Holloway, and unanimously adopted, the Commission voted to accept the Staff Recommendation and adopt the Proposed General Order filed into the record on January 9, 2013.

- Ex. 7** **T-32588** - Charles Holston, Inc., Wellspring Capital Partners IV, L.P., Wellspring OMNI Holdings Corporation, Gibson (U.S.) Acquisitionco Corp. & Gibson Energy, Inc. ex parte. In re: Request for approval of sale and change of control, from Wellspring OMNI Holdings, Corporation as seller, to Gibson (U.S.) Acquisitionco Corp. as buyer, to the indirect ownership and control of Charles Holston, Inc.

In re: Discussion and possible vote pursuant to Rule 57.

At the request of Commissioner Angelle.

On motion of Commissioner Skrmetta, seconded by Commissioner Campbell, and unanimously adopted, the Commission voted to exercise its original and primary jurisdiction and take this matter up pursuant to Rule 57.

On motion of Commission Skrmetta, seconded by Commissioner Campbell, and unanimously adopted, the Commission voted to accept the Staff Recommendation and approve the sale and change of control, from Wellspring OMNI Holdings, Corporation as seller, to Gibson (U.S.) Acquisitionco Corp. as buyer, to the indirect ownership and control of Charles Holston, Inc.

- Ex. 8** **U-32138** - Wastewater Treatment Systems & Operations, LLC (WTSO, LLC), ex parte. In re: Request for an increase in water and wastewater rates.

In re: Discussion and possible vote on Stipulated Agreement.

On motion of Commissioner Holloway, seconded by Commissioner Skrmetta, and unanimously adopted, the Commission voted to adopt the Joint Stipulation, with the following modifications: 1)

The recommended sewer rates are changed from \$30 to \$25 for all systems. For Country Pines and South Calcasieu, that \$25 sewer rate, along with the water increase rate to \$19, shall be interim through December 31, 2013. 2) Section 10 shall be modified to read as follows: The Company be ordered to provide the staff, no later than October 31, 2013, updated financials that include the first nine months of 2013 financial statements, system repair documentation and other data as requested by Staff that itemize and support the capital improvements and expenditures and repairs made to the utility systems since December 31, 2012 (first nine months of 2013). The Staff will review the additional documentation to determine if the additional costs incurred by the Company are reasonable and prudent and will make a determination, based on its findings whether an increase in the Company's sewer/wastewater rate is justified up to a rate not to exceed \$30 per customer. The Staff shall forward this determination to the Commission for consideration at the November or December 2013 Business and Executive Session. 3) Section 11 shall be deleted in its entirety. It was further ordered that the rates shall be put in place at next billing cycle.

Ex. 9 **U-32300** - Entergy Louisiana, LLC and Entergy Gulf States Louisiana, L.L.C., ex parte. In re: Application of Entergy Louisiana, LLC and Entergy Gulf States Louisiana, L.L.C. for Approval of Interim Extension of Independent Coordinator of Transmission Arrangement and Change of Services Provider from Southwest Power Pool, Inc. to Midwest Independent Transmission System Operator, Inc.

In re: Discussion and Possible Vote Regarding Entergy Louisiana, LLC and Entergy Gulf States Louisiana, L.L.C. Application to Engage Independent Transmission Service Monitor.

On motion of Commissioner Skrmetta, seconded by Commissioner Holloway, and unanimously adopted, the Commission voted to accept the Staff Recommendation and approve the Entergy Application to adopt the transmission monitoring plan, subject to the modifications required by FERC.

Ex. 10 **U-32631** - Cleco Power LLC. In re: Application of Cleco Power LLC for: (i) public interest finding in favor of the transfer of functional control of certain transmission assets to the Midwest Independent Transmission System Operator, Inc. Regional Transmission Organization; (ii) an accounting order deferring costs related to Cleco Power LLC's transition into the MISO RTO and permitting Cleco to collect such prudently-incurred, deferred costs from Cleco's LPSC-jurisdictional customers upon Cleco's integration into the MISO RTO; and (iii) expedited treatment. (MISO application.)

In re: Discussion and possible vote on hiring Outside Counsel and Consultant to assist Staff with Cleco's Application.

On motion of Commissioner Skrmetta, seconded by Commissioner Boissiere, and unanimously adopted, the Commission voted to retain Stone Pigman for professional fees not to exceed \$179,000, with expenses not to exceed \$9,700, for a total budget not to exceed \$188,700 to assist Staff in this matter.

On motion of Commissioner Skrmetta, seconded by Commissioner Boissiere, and unanimously adopted, the Commission voted to retain the consulting firm of Henderson Ridge Consulting for professional fees of \$42,920, with expenses not to exceed \$2,800 for a total budget not to exceed \$45,720 to assist Staff in this matter.

Ex. 11 **U-32649** - Dixie Electric Membership Corporation, ex parte. In re: Formula Rate Plan Annual Report for 2012 for Dixie Electric Membership Corporation ("DEMCO").

In re: Discussion and possible vote to hire J. Kennedy & Assoc., Inc. to assist Staff with this proceeding.

On motion of Commissioner Holloway, seconded by Commissioner Campbell, and unanimously adopted, the Commission voted to accept the Staff Recommendation and accept the Kennedy proposal and retain the firm to assist Staff with the 2012 test year review for an amount not to exceed \$24,700 with expenses not to exceed \$1,200 for a total budget of \$25,900 as specified in the proposal letter.

Ex. 12 **U-32675** - Entergy Louisiana, Inc. and Entergy Gulf States Louisiana, LLC., ex parte. In re: Joint implementation filing and request for associated approvals addressing certain implementation, integration, and other issues regarding EGSL and ELL joining the Midwest Transmission System Operator, Inc. Regional Transmission Organization, as determined by the LPSC in Order No. U-

32148 to be in the public interest subject to certain contingencies and the satisfaction of conditions. **AND U-32628** - Entergy Gulf States Louisiana, LLC and Entergy Louisiana, LLC., ex parte. In re: Joint Application for Approval of the Modification of the Current Methodology for Calculating Avoided Cost.

In re: Discussion and possible vote regarding hiring Phase 1 Counsel and Consultants to assist Staff with these proceedings.

On motion of Commissioner Skrmetta, seconded by Commissioner Angelle, and unanimously adopted, the Commission voted to retain the following firms to assist Staff in Docket No. U-32675 as follows: Exeter Associates, Inc., fees not to exceed \$74,000 plus expenses not to exceed \$7,000 for a total budget of \$81,000; J. Kennedy and Associates, fees not to exceed \$74,000 plus expenses not to exceed \$7,000 for a total budget of \$81,000; Patterson Consulting, fees not to exceed \$40,000 plus expenses not to exceed \$10,000 for a total budget of \$50,000; Stone Pigman, fees not to exceed \$279,000 plus expenses not to exceed \$14,000 for a total budget of \$293,000.

On motion of Commissioner Skrmetta, seconded by Commissioner Angelle, and unanimously adopted, the Commission voted to retain the following firms to assist Staff in Docket No. U-32628 as follows: Exeter Associates, Inc., fees not to exceed \$54,000 plus expenses not to exceed \$5,000 for a total budget of \$59,000; J. Kennedy and Associates, fees not to exceed \$27,000 plus expenses not to exceed \$2,500 for a total budget of \$29,500; Patterson Consulting, fees not to exceed \$20,000 plus expenses not to exceed \$5,000 for a total budget of \$25,000; Stone Pigman, fees not to exceed \$165,000 plus expenses not to exceed \$10,000 for a total budget of \$175,000.

Ex. 13 **S-32258** - Goodwill Water System, ex parte. In re: Request for an increase in Water Rates (non-profit system)

In re: Discussion and possible vote on request for increase in water rates.

On motion of Commissioner Campbell, seconded by Commissioner Holloway, and unanimously adopted, the Commission voted to adopt Option B, which allows the continuing of the rate of \$1.90 per 1,000 gallons on a permanent basis. This was the amount of the interim rate that was approved at the September Business and Executive Session.

Ex. 14 **S-32428** - Hagewood Water System, Inc., ex parte. In re: Request for an increase in water rates. (non-profit).

In re: Discussion and possible vote on Staff Recommendation.

On motion of Commissioner Campbell, seconded by Commissioner Holloway, and unanimously adopted, the Commission voted to accept the Staff Recommendation as filed into the record on November 27, 2012, with the modification that the interim rates previously approved at the September B&E be made permanent.

Ex. 15 **S-32448** - Henderson-Nina Water System, Inc., ex parte. In re: Request for an Increase in Water Rates (Non-Profit).

In re: Discussion and possible vote on Staff Recommendation.

On motion of Commissioner Angelle, seconded by Commissioner Holloway, and unanimously adopted, the Commission voted to accept the Staff Recommendation and approve the Staff's Recommendation included in the Audit Memorandum filed into the record on January 9, 2013.

Ex. 16 **S-32571** - TerraCom, Inc., ex parte. In re: Application to amend existing designation as an Eligible Telecommunications Carrier for purposes of receiving low income support to include rural study areas.

In re: Discussion and possible vote on Staff Recommendation.

On motion of Commissioner Angelle, seconded by Commissioner Boissiere, and unanimously adopted, the Commission voted to accept the Staff Recommendation and expand TerraCom's existing wireless ETC designation to include the rural portions of the State of Louisiana for the limited purpose of qualifying for federal low income/Lifeline support.

Ex. 17 **S-32144** - Springhill Community Water System, Inc., ex parte. In re: Request for an increase in water rates (non-profit system).

In re: Discussion and possible vote on Staff Recommendation.

Last month's Ex. 7.

On motion of Commissioner Campbell, seconded by Commissioner Angelle, and unanimously adopted, the Commission voted to accept the Staff Recommendation as contained in the Audit Memorandum filed into the record on October 17, 2012.

Ex. 18 **R-31417** - LPSC, ex parte. In re: Re-examination of the Commission's Net Energy Metering Rules found in General Order No. R-27558, dated November 30, 2005 (the "Net Metering Order")

In re: Discussion and possible vote on Staff's Report and Recommendation.

Last month's Ex. 8.

ITEM PULLED

Ex. 19 1) Reports
 2) Resolutions
 3) Discussions

Commissioner Holloway inquired as to when the net metering docket will be on the agenda and ready to be voted on, to which Staff Attorney Melanie Verzwylvelt responded hopefully March.

Commissioner Skrmetta requested on a going forward basis that the Agenda be arranged in a manner of least expected time consuming items to most expected time consuming items. He further requested Staff give an update either before or at the next meeting on Density Utilities, Inc. and Parks Water Service. He directed Staff to look into the ability of the LPSC to implement receiverships or whether the LPSC would have to go to civil court to do so. He further directed all outside consultants when making their reports for any/all dockets to be in contact with Commissioners and to also provide a written and signed report along with a statement of no conflict attached to any reports made on behalf of the Commission.

On motion of Commissioner Skrmetta, seconded by Commissioner Holloway, and unanimously adopted, the Commission voted to bring a matter up that is not on the agenda, Docket No. U-29764.

On motion of Commissioner Campbell, seconded by Commissioner Angelle, and unanimously adopted, the Commission voted to discuss U-29764 matter in Executive Session at the end of the meeting.

On motion of Commissioner Skrmetta, seconded by Commissioner Campbell, and unanimously adopted, the Commission voted to go into Executive Session.

On motion of Commissioner Holloway, seconded by Commissioner Skrmetta, and unanimously adopted, the Commission voted to come out of Executive Session.

On motion of Commissioner Skrmetta, seconded by Commissioner Holloway, and unanimously adopted, the Commission voted to stay the proceedings in Docket U-29764, effective immediately, with no further discovery or other activity to take place. The stay shall remain in place until December 31, 2013, after which time the Commission will determine whether and/or when the stay should be lifted and the appropriate scope of this proceeding going forward. This stay is without prejudice to the position that any party may wish to take in this Docket at the conclusion of the stay or with respect to any action the Commission may wish to take relating to its examination of whether ELL and EGSL should terminate their participation in the Entergy System Agreement and that the Commission will revisit this issue in three weeks.

Commissioner Skrmetta directed Staff to open a docket to study the effects of Entergy Texas leaving the System Agreement in eight years, immediately, or remaining in.

Commissioner Holloway inquired about the status of Cleco's participation in the renewable energy

pilot program, and the results of the Madison 3 biomass co-firing test, to which Staff Attorney Stephen Kabel reported Staff's Draft Report will be filed either today or tomorrow and will be ready for a vote at the February meeting.

Commissioner Angelle directed Staff to open a rulemaking docket for the purpose of reevaluating the Commission's prohibition on the unnecessary paralleling and duplication of existing transmission or distribution electric lines or the extensions thereof by jurisdictional electric utilities, also known as the "300 Foot Rule," as established by the Commission's July 11, 2000 General Order, and as subsequently amended by the Commission's May 26, 2004 General Order and by the October 5, 2005 General Order. Specifically, Staff is directed to examine possible modifications to the 300 Foot Rule that will increase possibilities and enhance opportunities for customer choice of providers. Such modifications should not, however, authorize the use of economic incentives or any other promotional practice that would violate or otherwise contradict the Commission's General Order of March 12, 1974.

Commissioner Angelle directed Staff to open a rulemaking docket to examine methods for adjusting the calculation for the authorized rates of return on equity for jurisdictional utility companies according to each utility's respective compliance with standards for reliability of service and disaster preparedness and response.

- Ex. 20** Entergy Louisiana, LLC, ex parte. In re: Request for authorization to extend by three months a site-specific electric service agreement with Graphic Packaging International, Inc. (formerly Riverwood International Corporation) located at West Monroe, Louisiana.

At the request of Commissioner Campbell.

On motion of Commissioner Campbell, seconded by Commissioner Holloway, and unanimously adopted, the Commission voted to accept the Staff Recommendation and approve the three-month continuation of the site-specific agreement between ELL and Graphic Packaging. It was further ordered that: 1) The Commission reserves the right to review any impact the extension of the Site-Specific Agreement has on Entergy or Entergy ratepayers. 2) The Commission's approval of this Agreement is contingent upon later review of impacts resulting from this proposed project in light of possible deregulation of electricity generation and any requirements of the transition to competition which may result. 3) By way of this extension, the existing special rate contract shall remain in continuous application for an additional three months.

- Ex. 21** **R-29380 Subdocket B - LPSC**, ex parte. In re: Investigation into the Rate Making and Generation Planning Implications of the U.S. EPA Clean Air Interstate Rule.

In re: Staff Report on Ruling in *EME Homer City Generation, L.P. v. EPA*.

At the request of Commissioner Skrmetta.

Outside Counsel Jeff Price and Staff Attorney Melanie Verzwylt reported on the positive rulings in *EME Homer City Generation, L.P. vs. EPA*.

- Ex. 22** Discussion and possible vote to hire Stone Pigman, J. Kennedy, Exeter and Patterson Consulting to assist Staff with Entergy/MISO-related FERC proceedings.

At the request of Commissioner Holloway.

On motion of Commissioner Skrmetta, seconded by Commissioner Boissiere, and unanimously adopted, the Commission voted to accept the Staff Recommendation and approve the following budgets for outside counsel and consultant to assist Staff in the Entergy/MISO-related FERC proceedings: Stone Pigman, \$466,000 plus expenses of \$24,000 for a total budget not to exceed \$490,000; Exeter Associates, \$85,000 plus expenses of \$7,000 for a total budget not to exceed \$92,000; J. Kennedy and Associates, \$85,800 plus expenses of \$10,000 for a total budget not to exceed \$95,800; and Patterson Consulting, \$60,000 plus expenses of \$16,000 for a total budget not to exceed \$76,000. Paul Zimmering and Noel Darce stated that they will be the principal attorneys for Stone Pigman in charge of this matter.

MEETING ADJOURNED

The next Business and Executive Session will be held February 20, 2013 at 9:00 a.m. in Baton Rouge, Louisiana.